



STATE OF MAINE  
COMMISSION ON GOVERNMENTAL ETHICS  
AND ELECTION PRACTICES  
135 STATE HOUSE STATION  
AUGUSTA, MAINE  
04333-0135

**Agenda**

**Meeting of July 13, 2005**

9:00 a.m., Commission Offices, 242 State Street, Augusta, Maine

**ROUTINE BUSINESS**

**1. Ratification of minutes of the February 17, and March 9, 2005 meetings**

**OLD BUSINESS**

**2. Request for Reconsideration by Christopher M. McCarthy**

At its May 11, 2005 meeting, the Ethics Commission assessed civil penalties totaling \$8,967.85 against candidate Christopher M. McCarthy for filing the October 27, 2004 and December 14, 2004 campaign finance reports late, and for failing to return \$845.72 in unspent Maine Clean Election Act funds by December 14, 2004. Mr. McCarthy has requested that the Commission reconsider its May 11 determination. *Staff recommendation: the staff recommends not reconsidering the May 11 determination.*

**NEW BUSINESS**

**3. Late Filing Penalty/Hon. Edward R. Dugay**

Representative Edward R. Dugay was a traditionally financed candidate for the Legislature in the 2004 elections. Because his opponent participated in the Maine Clean Election Act, Rep. Dugay was required to file up to four "accelerated reports" that notified the Commission whether his opponent was due to receive matching funds. The Commission staff has determined that Rep. Dugay was required to file the 101% Report on October 15, 2004 and an accelerated report on October 21 stating his general election receipts. Because these reports were not filed, his opponent did not receive \$1,191 in matching funds until days before the general election. Rep. Dugay has responded that he acted in good faith and believed his filings were accurate when he submitted them. *Staff recommendation: because a substantial amount of matching funds was delayed, the Commission staff recommends the assessment of a civil penalty of \$10,170 which is one-third of the maximum penalty permitted by the formula in the Election Law. The staff may recommend a reduced penalty if Rep. Dugay provides a more detailed explanation regarding his basis for believing his reports were accurate.*

#### **4. Inquiry by David F. Emery Regarding Exploratory Committee and Permissible Expenditures of Maine Clean Election Act Funds**

David F. Emery is considering running for the office of Governor of Maine. He requests guidance from the Commission on four questions: (1) what actions or conditions cause a person who is exploring a possible run for office to be considered an official candidate; (2) can Mr. Emery organize an exploratory committee that would raise and spend funds while maintaining the option of participating in the Maine Clean Election Act (MCEA); (3) can his campaign hire his own polling and analysis firm to provide services to the campaign; and (4) can MCEA funds be used to reimburse a gubernatorial candidate for meals, travel (including out-of-state), and lodging.

#### **5. Final Adoption of Major Substantive Rule Amendments**

On April 8, 2005, the Ethics Commission provisionally adopted major substantive amendments to the Commission's Rules. The Legislature enacted Resolve Chapter #111, which authorized the Commission to finally adopt the amendments upon making some further changes to the rule regarding advance purchases of general election goods and services before the primary election. *Staff recommendation: the staff recommends final adoption of the rule amendments after reviewing, in particular, pages 15 and 37 which show in bold the changes requested by the Legislature.*

#### **6. Request for Waiver of Late-Filing Penalty/Debra Hart**

Debra Hart is a registered lobbyist for five clients. She was late filing five monthly reports due June 15, 2005. The reports were filed on June 22, after she received a penalty notice from the Commission staff. The total statutory penalty for the five late reports is \$500. Based on the Commission's records, Ms. Hart has never been late filing her reports and typically files the monthly reports two weeks early. In late May, she began undergoing weekly medical treatments at a Boston medical center. *Staff recommendation: because of Ms. Hart's strong record of filing early reports and the mitigating circumstance of her medical treatment, the staff recommends reducing the statutory penalty to \$100.*

#### **7. Referral to Attorney General/Matthew Gagnon**

Matthew Gagnon was the Republican candidate for House District #14 in the 2004 elections. On April 8, 2005, the Ethics Commission assessed a total penalty of \$150 for the late filing of his 42-day post-primary and 6-day pre-general reports after considering Mr. Gagnon's request for a waiver of the penalty. On April 12, 2005, the Commission staff sent a formal determination requesting payment within 30 days. Under 21-A M.R.S.A. §1020-A(10), thirty days after issuing a notice of penalty the Commission "shall" report to the Maine State Attorney General the name of any person who has failed to pay the full amount of a civil penalty. On July 6, 2005, the Commission staff sent Mr. Gagnon a final notice that the staff would recommend referring him to the Attorney General for collection of the unpaid penalty. The Commission staff left a message for Mr. Gagnon at his residence. Mr. Gagnon has not responded to any of these communications. *Staff recommendation: the Commission staff recommends referring Mr. Gagnon to the State Attorney General for collection of the civil penalty.*

## **8. Referral to Attorney General/John Linscott**

John Linscott was the Republican candidate for House District #116 in the 2004 elections. On June 8, 2005, the Commission assessed a \$35.72 penalty for violating the Maine Clean Election Act by contributing personal funds to his campaign and spending those funds. On June 8, 2005, the Commission staff sent a formal determination requesting payment within 30 days. Mr. Linscott replied with a letter dated June 14, 2005, in which he stated his intention not to pay the penalty. On July 6, 2005, the Commission staff sent Mr. Linscott a final notice that the staff would recommend referring him to the Attorney General for collection of the unpaid penalty. *Staff recommendation: the Commission staff recommends referring Mr. Linscott to the State Attorney General for collection of the civil penalty*

## **9. Referral to Attorney General/Arthur Keenan**

Arthur Keenan was the Democratic candidate for House District #34 in the 2004 elections. On May 11, 2005, the Commission assessed a \$500 penalty for the late filing of his 42-day post-general election report after considering Mr. Keenan's request for a waiver of the penalty. On May 12, 2005, the Commission staff sent a formal determination requesting payment within 30 days. On July 6, 2005, the Commission staff sent Mr. Keenan and his treasurer, Mary Anne Keenan, a final notice that the staff would recommend referring him to the Attorney General for collection of the unpaid penalty. Mr. Keenan's telephone number has been disconnected, and the Commission director has left a voicemail message with Mary Anne Keenan. Mr. Keenan has not responded to any of these communications. *Staff recommendation: the Commission staff recommends referring Mr. Keenan to the State Attorney General for collection of the civil penalty.*

## **Other**

Miscellaneous as needed.

## **EXECUTIVE SESSION**

If necessary.

## **ADJOURNMENT**